

1 [SEE SIGNATURE PAGE FOR PARTIES AND COUNSEL OF RECORD]
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

9
10 ZEP SOLAR, INC.,

11 Plaintiff,

12 v.

13 WESTINGHOUSE SOLAR, INC. (formerly
known as AKEENA SOLAR, INC.);
14 ANDALAY SOLAR, INC.; LIGHTWAY
GREEN NEW ENERGY COMPANY,
LTD.; BRIGHTWAY GLOBAL, LLC;
15 MORRISON SUPPLY COMPANY, LLC;
SKY SOLAR SOLUTIONS, LLC;
16 ALTERNATIVE POWER & ELECTRIC,

17 Defendants.

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19 WESTINGHOUSE SOLAR, INC. et al.,

20 Counterclaimants,

21 v.

22 ZEP SOLAR, INC.,

23 Counterdefendant.

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25 Case No. CV 11-6493 JSW
AMENDED

26 **STIPULATION AND ~~PROPOSED~~
ORDER REQUESTING TO CONTINUE
CERTAIN PRE-TRIAL DATES**

27 **AS MODIFIED.**

Judge: Hon. Jeffrey S. White
Complaint Filed: December 20, 2011

28 Plaintiff/Counterdefendant Zep Solar, Inc. ("Zep") and Defendants/Counterclaimants
Westinghouse Solar, Inc. and Andalay Solar, Inc. (together, "WSI") and Lightway Green New
Energy Company, Ltd., Brightway Global, LLC, Morrison Supply Company, LLC, Sky Solar

1 Solutions, LLC, and Alternative Power & Electric (all collectively, "Defendants"),¹ by and
2 through their respective counsel, pursuant to this Court's Civil Standing Order and Northern
3 District of California Civil Local Rule 6-2, make this stipulated request for an order to continue
4 case scheduling dates with reference to the following facts:

5 WHEREAS, Zep filed this action on December 20, 2011, alleging infringement of Zep's
6 U.S. Patent No. 7,592,537;²

7 WHEREAS, the parties are engaging in preliminary motion practice related to the
8 dismissal of some parties for a lack of personal jurisdiction and for failure to state a claim;

9 WHEREAS, the Court vacated the previously set Case Management Conference to allow
10 for resolution of these motions, and there are accordingly no other dates presently scheduled (save
11 dates for briefing and hearing on the above referenced motions);

12 WHEREAS, by Order dated April 16, 2012 the Court granted Zep until May 30, 2012 to
13 take discovery as to whether Morrison Supply and Sky Solar Solutions have contacts with
14 California sufficient to support personal jurisdiction (Docket No. 56);

15 WHEREAS, recently, in the last several weeks the parties have engaged in settlement
16 discussions;

17 WHEREAS, the parties have made significant progress in those discussions and are
18 optimistic they will achieve a final resolution of the parties' disputes in the coming weeks;

19 WHEREAS, in light of these positive developments, the parties have already obtained a
20 stipulated deferral of dates in the International Trade Commission relating to a complaint filed by
21 WSI against Zep in that forum (Exhibit A);

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23 ¹ Defendants Morrison Supply Company, LLC and Sky Solar Solutions, LLC are specially
24 appearing for the sole purpose of indicating their agreement to this Stipulation and do not by this
stipulation, and the parties agree by this stipulation do not, waive previously asserted objections
to personal jurisdiction.

25 ² The parties are presently involved in a series of additional actions in the Northern District of
26 California and United States International Trade Commission concerning two WSI patents – U.S.
27 Patent No. 7,406,800 (the "800 Patent") and U.S. Patent No. 7,987,641 (the "641 Patent")
(*Akeena Solar et al. vs. Zep Solar, et al.*, U.S.D.C. N.D. Cal. Case No. CV 09-5040 filed October
22, 2009 re the '800 patent (stayed); *Zep Solar et al. vs. Westinghouse Solar, et al.*, U.S.D.C.
N.D. Cal. Case No. CV 11-3800 filed August 2, 2011 re the '641 Patent (stayed); *In the Matter of
Certain Integrated Solar Power Systems and Components Thereof*, USITC Investigation No. 337-
TA-811 filed October 3, 2011(several dates deferred approximately 30 days)).

WHEREAS, the parties wish to obtain a similar deferral of upcoming dates in this Action to facilitate these ongoing settlement discussions;

ACCORDINGLY, it is HEREBY STIPULATED by and among the parties and their counsel of record that the current scheduled dates in this action be deferred by approximately thirty days and be modified as follows (under the "Proposed" column):

Event	Current Date	Proposed New Date
WSI, Morrison Supply, and Sky Solar to file amendments to their answers and counterclaims, if any	May 4, 2012	June 1, 2012
Zep's Opposition to Alternative Power & Electric's Motion to Dismiss	May 15, 2012	June 15, 2012
Alternative Power & Electric's Reply on Motion to Dismiss	May 22, 2012	June 22, 2012
Zep to Complete Jurisdictional Discovery Pursuant to this Court's Order of April 16, 2012 (Docket 56)	May 30, 2012	June 29, 2012
Zep's Opposition to Sky Solar Solutions and Morrison Supply Co.'s Motion to Dismiss	June 6, 2012	July 6, 2012
Hearing on Alternative Power & Electric's Motion to Dismiss DOCKET NO. 27	June 8, 2012	July 13, 2012 ³
Sky Solar Solutions and Morrison Supply Co.'s Replies On Motion to Dismiss	June 13, 2012	July 13, 2012
Hearing on Sky Solar Solutions and Morrison Supply Co.'s Motions to Dismiss DOCKETS 12, 14	June 29, 2012	July 27, 2012

August 3, 2012

The Court previously continued the hearings on Defendants' motions to dismiss. Docket Nos. 51, 56. The Court vacated the date set for the Case Management Conference. Docket No. 56. The scheduling modifications requested by this stipulation will not affect other dates set in this action.

³ The parties request that the hearing on Alternative Power & Electric's Motion to Dismiss be continued to July 13, 2012, which is more than 30 days from the current hearing date, as that appears to be the first available hearing date on the Court's calendar.

1 IT IS SO STIPULATED.

2 Dated: April 26, 2012

FARELLA BRAUN + MARTEL LLP

3 By: _____ /s/

4 Roderick M. Thompson (State Bar No.
96192)

rthompson@fbm.com

5 Jeffrey M. Fisher (State Bar No. 155284)
jfischer@fbm.com

6 Deepak Gupta (State Bar No. 226991)
dgupta@fbm.com

7 235 Montgomery Street, 17th Floor
San Francisco, CA 94104
Telephone: (415) 954-4400
Facsimile: (415) 954-4480

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9
10 Attorneys for Plaintiff/Counterdefendant
11 ZEP SOLAR, INC.

12 Dated: April 26, 2012

13 SNELL & WILMER LLP

14 By: _____ /s/

15 Deborah S. Mallgrave (#198603)
dmallgrave@swlaw.com

16 Jeffrey M. Singletary (#233528)
jsingletary@swlaw.com

17 Harsh P. Parikh (#281402)
hparikh@swlaw.com

18 600 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626-7689
Telephone: 714-427-7000
Facsimile: 714-427-7799

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20 Attorneys for Defendants/Counterplaintiffs
21 WESTINGHOUSE SOLAR, INC.,
ANDALAY SOLAR, INC.; Defendant
22 ALTERNATIVE POWER & ELECTRIC;
and specially appearing Defendants
MORRISON SUPPLY COMPANY, LLC,
and SKY SOLAR SOLUTIONS, LLC.

1 Dated: April 26, 2012

COBLENTZ, PATCH, DUFFY & BASS LLP

2 By: /s/

3 Jeffrey G. Knowles (State Bar No. 129754)
ef-jgk@cpdb.com
4 Julia D. Greer (State Bar No. 200479)
ef-jdg@cpdb.com
5 One Ferry Building, Suite 200
San Francisco, California 94111-4213
6 Telephone: 415.391.4800
Facsimile: 415.989.1663

7 Attorneys for Defendants/Counterplaintiffs
8 LIGHTWAY GREEN NEW ENERGY
COMPANY, LTD., AND BRIGHTWAY
9 GLOBAL, LLC

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Case No. CV 11-6493 JSW
STIPULATED REQUEST TO CONTINUE
CERTAIN PRE-TRIAL DATES
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1 **ATTESTATION UNDER GENERAL ORDER NO. 45**

2 In accordance with Northern District of California General Order No. 45, Section X, the
3 filer of this document hereby attests that the concurrence to the filing of this document has been
4 obtained from the other signatories hereto.

5 Dated: April 26, 2012

6 FARELLA BRAUN + MARTEL LLP

7 By: _____ /s/
8 Jeffrey M. Fisher

9 Attorneys for Plaintiff/Counterdefendant
10 ZEP SOLAR, INC.

11 **ORDER**

12 **PURSUANT TO STIPULATION, IT IS SO ORDERED, AS MODIFIED and as
13 AMENDED to reflect the
14 correct docket number for
15 Alternative Power's motion
16 to dismiss.**

Dated: April 27, 2012

17 By: 
18 THE HONORABLE JEFFREY S. WHITE
19 UNITED STATES DISTRICT COURT JUDGE

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